IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

THURSDAY, THE 18TH OCTOBER 2007 / 26TH ASWINA 1929

OP.No. 22401 of 2000(P)

PETITIONER:

M.A.ANAZ, 'SHEENAS', PILAPUZHA SOUTH,
HARIPPAD.

BY ADV. SRI.N.NANDAKUMARA MENON
SRI.MURALI PURUSHOTHAMAN

RESPONDENTS:
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1. **STATE OF KERALA, REP.BY**
THE PRINCIPAL SECRETARY TO GOVERNMENT,
FOREST & WILD LIFE (A)
DEPARTMENT, SECRETARIAT, TRIVANDRUM.

2. **THE CHIEF CONSERVATOR OF FORESTS**
A(ADMINISTRATION), FOREST
HEADQUARTERS, VAZHUTHACAUD,
TRIVANDRUM.

3. **THE CHIEF CONSERVATOR OF FORESTS**
(PROTECTION), FOREST HEADQUARTERS,
VAZHUTHACAUD, TRIVANDRUM

BY GOVERNMENT PLEADER SRI.P.N.SANTHOSH
BY SPL. GOVERNMENT PLEADER SRI.RENJITH THAMPAN(FOREST)

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 18/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

OP. NO.22401/2000

ORDER ON CMP. NOS.57354/2000, 37701.2000 IN IA. 9586/2004 IN OP. NO.22401/2000

DISMISSED

18.10.2007 **SD/- THOTTATHIL B.RADHAKRISHNAN, JUDGE**

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE ADVICE MEMO NO.RIC (1) 30012/98/GW DT. 11.3.99 ISSUED TO THE PETITIONER BY THE K.P.S.C.

EXT.P2:- COPY OF THE LETTER NO.61/99 DT. 9.9.99 ISSUED TO THE PETITIONER BY THE PRINCIPAL, KERALA FOREST SCHOOL, ARIPPA.

EXT.P3:- COPY OF THE ORDER NO.E1-8427 DT. 7.9.99 ISSUED BY THE 3RD RESPONDENT TO THE PETITIONER.

EXT.P4:- COPY OF THE SHOW CAUSE NOTICE NO.B2-1050/2000 DT. 13.1.2000 ISSUED TO THE PETITIONER BY THE 3RD RESPONDENT.

EXT.P5:- COPY OF THE REPLY SUBMITTED BY THE PETITIONER BEFORE THE 3RD RESPONDENT DT. 19.1.2000.

EXT.P6:- COPY OF THE ORDER NO.B2-1050/2000 DT. 14.3.2000 ISSUED BY THE 3RD RESPONDENT.

EXT.P7:- COPY OF THE REPRESENTATION DT. 22.3.2000 SUBMITTED BY THE PETITIONER BEFORE THE HONOURABLE MINISTER FOR FOREST, KERALA STATE.

EXT.P8:- COPY OF THE ORDER IN CMP. NO.37701/2000 IN OP. NO.22401/2000 DT. 7.8.2000.

EXT.P9:- COPY OF THE TRANSMISSION REPORT DT. 8.8.2000 SHOWING THE CONFIRMATION OF THE MESSAGE RECEIVED BY THE 2ND RESPONDENT.

EXT.P10:- COPY OF THE LETTER DT. 8.8.2000 SUBMITTED BY THE PETITIONER BEOFRE THE 2ND RESPONDENT.

EXT.P11:- COPY OF THE ORDER DT. 7.8.2000 IN CMP. NO.37701/2000 IN OP. NO.22401/2000 PASSEDBY THE HONOURABLE HIGH COURT OF KERALA.

OP. NO.22401/2000

EXT.P12:- COPY OF THE ORDER NO.B2/1050/2000 DT. 21.8.2000 PASSEED BY THE 2ND RESPONDENT.

EXT.P13:- COPY OF THE ORDER NO.B2-1050/2000 DT. 15/9/2000 PASSED BY THE 2ND RESPONDENT.

EXT.P14:- COPY OF THE COMMUNICATION ALONG WITH THE COPY OF TRAINING PROGRAMME ISSUED TO THE 2ND RESPONDENT BY THE PRINCIPAL OF THE FOREST TRAINING SCHOOL, ARIPPA.

EXT.P15:- COPY OF THE LETTER DT. 24.11.2000 SENT BY THE PRINCIPAL OF THE FOREST TRAINING SCHOOL, ARIPPA TO THE 2ND RESPONDENT.

EXT.P16:- COPY OF THE REPRESENTATION DT. 25.11.2000 SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.

EXT.P17:- COPY OF THE ORDER DT. 7.6.01 IN CMP. NO.57354/2000 IN OP. 2401/2000 PASSED BY THE HONOURABLE HIGH COURT OF KERALA AT ERNAKULAM.

EXT.P18:- COPY OF THE CERTIFICATE NO.21151/03 SERIAL NO.ACL 19124 ST. 28.11.03 ISSUED BY THE KERALA PUBLIC SERVICE COMMISSION REGARDING THE PASSING OF THE DEPARTMENTAL TESTS.

EXT.P19:- COPY OF THE CERTIFICATE NO.9571/02 SERIAL NO.FCO 120 DT. 13.8.02 ISSUED BY THE KERALA PUBLIC SERVICE COMMISSION REGARDING THE PASSING OF THE DEPARTMENTAL TESTS.

EXT.P20:- COPY OF THE INTERIM ORDER DT. 23.8.04 IN IA. NO.9586/04 IN OP. 22401/2000 ISSUED BY THE HONOURABLE HIGH COURT OF KERALA AT ERNAKULAM.

EXT.P21:- COPY OF THE ORDER NO.E1-17847/01 DT. 14.9.04 PASSED BY THE SECOND RESPONDENT.

EXT.P22:- COPY OF THE ORDER NO.PCM3-2068/01 DT. 8.2.02 ISSUED BY THE PRINCIPAL CHIEF CONSERVATOR OF FORESTS, TVM TO THE PETITIONER.

EXT.P23:- COPY OF THE ORDER G.O.(RT) 235/02/F&WLD DT. 23.7.02 ISSUED BY THE GOVERNMENT.

EXT.P24:- COPY OF THE ORDER GO.(RT) NO.248/03/F&WLD DT. 10.6.03 ISSUED BY THE GOVERNMENT.

EXT.P25:- COPY OF THE ORDER NO.E1-1767/04 DT. 9.2.04 ISSUED BY THE CHIEF CONSERVATOR OF FORESTS, THIRUVANANTHAPURAM.

OP. NO.22401/2000

EXT.P26:- COPY OF THE ORDER NO.GO(RT) 462/04/F&WLD DT. 3.11.2004.

EXT.P27:- COPY OF THE LEAVE APPLICATION DT. 27.11.05 TO 30.5.06 SUBMITTED BY THE RESPONDENT/ PETITIONER BEFORE THE CHIEF CONSERVATOR OF FORESTS (ADMINISTRATION) FOREST HEADQUARTERS, TRIVANDRUM.

EXT.P27(a):- COPY OF THE COVERING LETTER DT. 26.11.05 SUBMITTED BY THE RESPONDENT BEFORE THE FOREST DEPARTMENT, TRIVANDRUM.

EXT.P28:- COPY OF THE ORDER S.O.NO.19/05 DT. 31.5.05 ISSUED BY THE ASSISTANT CONSERVATOR OF FORESTS (ADM). VAZHUTHACAUD, TRIVANDRUM TO THE RESPONDENT/ PETITIONER.

EXT.P29:- COPY OF THE SHOW CAUSE NOTICE NO.E1-17847/01 DT. 28.11.05 ISSUED BY THE CHIEF CONSERVATOR OF FORESTS (ADMINISTRATION) THIRUVANANTHAPURAM TO THE RESPONDENT/ PETITIONER.

EXT.P30:- COPY OF THE REPLY DT. 16.2.06 SUBMITTED BY THE RESPONDENT/ PETITIONER TO THE CHIEF CONSERVATOR OF FORESTS (ADMINISTRATION) THIRUVANANTHAPURAM.

<u>RESPONDENTS EXHIBITS</u>

EXT.R1(a):- COPY OF THE ORDER NO.B2-1050/2000 DT. 15..9.2000.

EXT.R1(b):- COPY OF THE PROCEEDINGS ORDER NO.E1-17857/01 DT. 11.7.01.

ANNEXURE-1:- COPY OF THE GO(RT) NO.574/07/F&WLD DT. 9.10.07.

ANNEXURE -1:- COPY OF THE CERTIFICATE ISSUED BY THE POSTAL AUTHORITIES.(I.A. NO.1682/2006)

/TRUE COPY/

P.A. TO JUDGE

tss

THOTTATHIL B.RADHAKRISHNAN, J

O.P.No.22401 OF 2000

Dated this the 29th day of May, 2007

O R D E R

Having regard to the nature of the direction being issued hereunder, I do not deem it necessary or appropriate to make detailed reference to the entire facts of the case.

2. Petitioner was selected for appointment as Forest Ranger. The nature of training to be imparted to him required him to be posted in a station. While his training was going on in that station, a forest offence was registered against certain alleged wrong doers. It appears that there were certain paper reports following that incident. This led to issuance of Ext.P6, wherein, the competent authority apparently noticed that all was not well. I leave it to the administrative authorities to read Ext.P6 and come to there own conclusions.

3. Though the petitioner made Ext.P7 before the Government complaining about Ext.P6, he chose to move this Court on the

premise that Ext.P6 has been issued, though in the form of a show cause notice, with the dies loaded against him. During the course of this litigation, interlocutory orders have been issued by this Court on the basis of which, as of now, the petitioner completed the training and was posted in some office.

4. Incidentally, with the passage of time and with two counter affidavits on record, it is noticed that different other allegations not referable to the contents of Ext.P6 are also put against the petitioner, before this Court, including that he has now absented from performing any duties in the office where he is posted following the interim orders and has virtually abandoned any claim to be employed with the Government and has taken up employment elsewhere.

5. The entire case reflects certain larger issues which require to be considered.

6. The petitioner was a trainee. A Deputy Ranger was put

under the control of the petitioner. The Deputy Ranger was to register cases in the station where the petitioner was undergoing training. It is obvious that any trainee would have a superior supervisor for his training. That is how training takes place in any field, because without a trainer, there is no training. May be that the trainer may not be locally available in that office, but at least notionally, the trainee is under the supervisory control of the superiors in the hierarchy in the department. That is all that I mean when I say about the presence of a trainer.

7. The second aspect is that when a case is registered for an offence punishable under law and the persons in the investigation and registration of that crime are thereafter proceeded on the premise of preparation of conflicting mahazars or of having foisted a case, what would be the credibility and sustainability of the criminal case ? I pose this query without being informed by either side as to what is the stage of the forest case No.O.R.17/99.

8. The third aspect is, even going by Ext.P6, certain other officers are also implicated in whatever allegations are contained in Ext.P6. What has been done to them ? Did they face any action ? All the aforesaid factors will be relevant to take a final decision as to what has to be done in the case of the petitioner. More than that, all those will be relevant for the executive and the judiciary to ensure appropriate enforcement of the forest laws.

9. Having regard to the totality of the facts and circumstances, while the status quo as on today shall be maintained, the Principal Secretary in the Forest Department will take up Ext.P7, summon all the files and look into the O.R. file also and its stage and have a comprehensive decision taken touching the petitioner, the other aspects, which are indicated above, including the forest offence that has been registered, as also regarding the action taken, if any, against any other Government servant involved in the matter. It is clarified that this order does not touch on the merits of this case and the

decision as aforesaid shall be taken untrammelled by whatever is contained herein. A final decision in this regard shall be taken and placed before this Court within a period of four months. It shall be ensured that the petitioner and any other person entitled to be heard are afforded such opportunity.

10. A comprehensive affidavit of the action following this order shall be placed on record.

Post on 3.10.2007.

H/o. copy to Government Pleader also.

THOTTATHIL B. RADHAKRISHNAN,
Judge.

kkb.

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THOTTATHIL B. RADHAKRISHNAN, J

O.P.NO.22401 OF 2000

O R D E R

29th MAY, 2007.

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